

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

**LISA ALCORN, as Independent Administrator  
Of the Estate of TYLER LUMAR**

**Plaintiff,**

**v.**

**THE CITY OF CHICAGO, a Municipal  
Corporation; OFFICER DANIEL  
WARREN (#17444), OFFICER CARLOS  
VEGA (#17477), OFFICER CORRINA  
ESTEBAN (#17617); COMMANDER JAMES  
JONES (#73), SERGEANT KEVIN GEYER  
(#1679), JONATHAN ERRUM (#117727  
Individually and as employees and/or agents  
of the CITY OF CHICAGO,  
COOK COUNTY, OFFICER T. WLODARSKI,  
OFFICER CRAWFORD, OFFICER GARMON,  
OFFICER LEON, CORRECTIONAL  
LIEUTENANT CHAUNTE LATHAM, and  
LIEUTENANT ANGELA T. LEWIS,  
Individually and as employees and/or agents of  
the COOK COUNTY SHERIFF'S OFFICE, and  
COOK COUNTY SHERIFF THOMAS J. DART,**

**Defendants.**

**No. 17 CV 5859**

**PLAINTIFF'S MOTION FOR ENTRY OF DEFAULT  
v. DEFENDANT OFFICER KIPP GARMON**

Plaintiff, LISA ALCORN, by her attorneys, O'CONNOR LAW GROUP, LLC, moves for an order of default against Defendant OFFICER KIPP GARMON, and in support state:

1. Defendant Officer Kipp Garmon is a party to this matter.
2. On January 11, 2018, Defendant Officer Kipp Garmon was served with process. See Document #74.
3. On January 31, 2018, Defendant Officer Kipp Garmon appeared. See Document #75.

4. On March 5, 2019, this Court ordered that the parties were to begin issuing deposition notices by March 19, 2019. See Document #185.
5. On March 19, 2019, the parties scheduled Defendant Officer Garmon's deposition for April 30, 2019 at 3:00 p.m. at 140 S. Dearborn Street, Suite 320. See attached Notice of Deposition. (Exhibit A).
6. Defendant Officer Garmon failed to appear for his scheduled deposition on April 30, 2019.
7. Plaintiff's attorney made repeated attempts to reschedule Officer Garmon's deposition. See attached email correspondence. (Exhibit B).
8. On October 17, 2019, this Court ordered that the parties agree on firm deposition dates for all remaining fact witnesses, including named defendants by November 18, 2019. See Document #185.
9. As of November 18, 2019, Counsel for Officer Garmon had not produced Officer Garmon nor confirmed a date for his deposition. Counsel for Officer Garmon has advised Plaintiff's counsel that Officer Garmon is now living in Arizona. Plaintiff's counsel offered to take his deposition via video conference at an agreed upon location in Arizona.
10. On November 19, 2019, this Court ordered again that the parties provide agreed upon firm deposition dates for all remaining fact witnesses, including Officer Garmon, by December 2, 2019. See Document #216.
11. On November 26, 2019, Plaintiff's counsel advised counsel for Garmon that she would be moving for default if he failed to produce Garmon for his deposition. (Exhibit C).
12. As of December 2, 2019, Officer Garmon has failed to appear for his deposition. Additionally, counsel has failed to provide Plaintiff's counsel with any date in which to depose him.

13. This Court has set the close of fact discovery for January 31, 2020, leaving the parties with little more than a month remaining to schedule and conduct Defendant Officer Kipp Garmon's deposition.
14. As such, despite repeated attempts to reschedule on the part of Plaintiff's attorneys, Defendant Officer Kipp Garmon has failed to comply with this Court's orders.
15. Under Federal Rules of Civil Procedure Rule 37(d), a total failure to respond to the discovery requested—here, a party's own deposition—justifies a sanction. *United States v. Dimucci*, 110 F.R.D. 263, 267 (N.D. Ill. 1986); *Fox v. Commissioner of Internal Revenue*, 718 F.2d 251, 254 (7th Cir. 1983); *Marchman v. Derwinski*, No. 86 8255, 1992 WL 6063, at \*1 (N.D. Ill. Jan. 9, 1992).
16. This Court may issue any sanction listed in Rule 37(b)(2)(A)(i)-(vi), including default judgment against Defendant Officer Kipp Garmon.
17. This Court is justified in using default judgment as a sanction against Defendant Officer Kipp Garmon for his total failure to comply with his own deposition in order to ensure that Plaintiff, who is vigorously pursuing her case, is not hindered by those who are not. *United States v. Di Mucci*, 879 F.2d 1488, 1493-94 (7th Cir. 1989).

WHEREFORE, Plaintiff moves for an order of default pursuant to Rule 37(d) and 37(b)(2)(A)(vi) against Defendant OFFICER KIPP GARMON.

Respectfully Submitted,

/s/ Eileen M. O'Connor  
Eileen M. O'Connor  
One of the Attorneys for Plaintiff

ARDC No.6290372  
Eileen M. O'Connor  
O'CONNOR LAW GROUP  
140 S. Dearborn, Suite 320  
Chicago, IL 60603  
(312) 236-1814  
[eoc@oconnorlawgrp.com](mailto:eoc@oconnorlawgrp.com)

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

LISA ALCORN, as Plenary Guardian of the	)	
Estate and Person of TYLER LUMAR	)	
	)	
Plaintiff,	)	
v.	)	No. 17 CV 5859
	)	
THE CITY OF CHICAGO, a Municipal	)	
Corporation, et al.,	)	
	)	
Defendants.	)	

**NOTICE OF DEPOSITIONS**

TO: Attorneys of Record - See Attached Service List

**PLEASE TAKE NOTICE** that pursuant to Federal Rules of Civil Procedure Rule 30, we will take the depositions of the following individuals, on the following dates:

<b><u>Deponent</u></b>	<b><u>Date</u></b>
Officer T. Wlodarski	April 30, 2019@10:00 a.m.
Officer Crawford	April 30, 2019@1:00 p.m.
Officer Garmon	April 30, 2019@3:00 p.m.
Officer Leon	May 1, 2019@10:00 a.m.
Correctional Lt. Chaunte Lathan	May 1, 2019@1:00 p.m.
Lt. Angela Lewis	May 1, 2019@3:30 p.m.

The depositions shall take place at the O'Connor Law Group LLC, 140 S. Dearborn Street, Suite 320, Chicago, Illinois, 60603. The depositions shall be recorded stenographically.

Dated: March 19, 2019

Respectfully Submitted,

By: /s/ Eileen M. O'Connor  
Eileen M. O'Connor, # 06290372  
O'CONNOR LAW GROUP LLC  
140 S. Dearborn, Suite 320  
Chicago, IL 60603  
(312) 236-1814  
[eoc@oconnorlawgrp.com](mailto:eoc@oconnorlawgrp.com)



**CERTIFICATE OF SERVICE**

Under penalties as provided by law, the undersigned certifies that copies of the above were served on the above parties via electronic mail to all attorneys of record prior to 5:00 p.m. on March 19, 2019.

\_\_\_\_\_

RE: Alcorn v. City of Chicago  
Court No. 17 CV 5859

**SERVICE LIST**

**ATTORNEY FOR CITY OF CHICAGO**

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Elizabeth Ekl  
Paul Michalik  
Daniel M. Noland  
Katherine C. Morrison  
Daniel J. Burns  
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**ATTORNEY FOR DANIEL WARREN, CARLOS VEGA,  
JAMES JONES, ALAN LASCH, CORRINA ESTEBAN,  
KEVIN GEYER, WESLENE O'DONNELL AND JONATHAN ERRUM**

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Sanchez Daniels & Hoffman, LLP  
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[EDavenport@SanchezDH.com](mailto:EDavenport@SanchezDH.com)

**ATTORNEY FOR DART, COOK COUNTY, WLODARSKI, CRAWFORD, GARMON,  
LEON, LATHAM, LEWIS and JONES-TAPIA**

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Jenna Ann McMahon  
Cook County State's Attorney's Office  
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[Jenna.McMahon@cookcountyil.gov](mailto:Jenna.McMahon@cookcountyil.gov)

**Eileen O'Connor**

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**From:** Eileen O'Connor  
**Sent:** Tuesday, December 10, 2019 10:13 AM  
**To:** Jonathan Safron  
**Subject:** FW: Alcorn v. City - Depositions of

Eileen M. O'Connor  
**O'CONNOR LAW GROUP, LLC**  
140 S. Dearborn  
Suite 320  
Chicago, IL 60603  
Phone: (312) 236-1814  
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**From:** Eileen O'Connor <eoc@oconnorlawgrp.com>  
**Sent:** Monday, October 14, 2019 9:28 AM  
**To:** John Power (States Attorney) <John.Power@cookcountyil.gov>  
**Subject:** RE: Alcorn v. City - Depositions of

John:

Do you have dates yet for the remaining County officers Temple and Garmon?

Eileen M. O'Connor  
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**From:** Eileen O'Connor <eoc@oconnorlawgrp.com>  
**Sent:** Friday, October 18, 2019 3:46 PM  
**To:** John Power (States Attorney) <John.Power@cookcountyil.gov>  
**Subject:** RE: Alcorn v. City - Depositions of

John:

As to Garmon, he is a named Defendant and was physically present at the time of the incident so I will need to depose him.

As for Temple, I guess I need to know what "procedure" required that he/she be notified, what his title is, etc. I am finalizing written discovery to you that includes questions related to this issue, i.e. whether the incident was reported to IDOC, identifying who the Executive Director was, etc. It sounds like Temple may be the person with the most knowledge on this topic?

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**Eileen O'Connor**

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**Sent:** Tuesday, December 10, 2019 10:13 AM  
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**Subject:** FW: Alcorn;

Eileen M. O'Connor  
**O'CONNOR LAW GROUP, LLC**  
140 S. Dearborn  
Suite 320  
Chicago, IL 60603  
Phone: (312) 236-1814  
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**From:** John Power (States Attorney) <John.Power@cookcountyil.gov>  
**Sent:** Friday, November 15, 2019 12:54 PM  
**To:** Katherine C. Morrison <kmorrison@reiterburns.com>; Elaine C. Davenport <EDavenport@SanchezDH.com>; Eileen O'Connor <eoc@oconnorlawgrp.com>  
**Cc:** Hayley H. Ryan <HRyan@SanchezDH.com>; Elizabeth Ekl <eekl@reiterburns.com>; Maria Avitia <mavitia@reiterburns.com>  
**Subject:** RE: Alcorn;

I am available for Alexander on 11/20 at 2:00 after Officer Temple (11/20/19 at 11:00 a.m.)

As to Officer Garmon, who is retired and living in Arizona, I have not been able to obtain a date for his deposition.



**John Power**  
Deputy Supervisor - Civil Rights/Torts Litigation  
Civil Actions Bureau  
Cook County State's Attorney's Office  
500 Richard J. Daley Center  
Chicago, IL 60602  
P: 312.603.4370  
F: 312.603.3000  
E: [john.power@cookcountyil.gov](mailto:john.power@cookcountyil.gov)

**Eileen O'Connor**

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**From:** Eileen O'Connor  
**Sent:** Tuesday, November 26, 2019 2:27 PM  
**To:** John Power (States Attorney)  
**Cc:** Joan Mansch  
**Subject:** Re: Alcorn;

John:

Per the Court's last order, we have to have all depositions set by 12/2.

I need to know what you intend on doing with Garmon? If you can't get him to respond, I see no other choice than to move for default. Please let me know.

Thank you,

Eileen M. O'Connor  
**O'CONNOR LAW GROUP, LLC**  
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**From:** Eileen O'Connor <eoc@oconnorlawgrp.com>  
**Sent:** Friday, November 15, 2019 1:40 PM  
**To:** John Power (States Attorney) <John.Power@cookcountyil.gov>  
**Subject:** RE: Alcorn;

John:

Have you made any contact with him?

Eileen M. O'Connor  
**O'CONNOR LAW GROUP, LLC**  
140 S. Dearborn  
Suite 320  
Chicago, IL 60603

